

SUPPLEMENTARY TREATY OF COMMERCE AND NAVIGATION.

Signed at Shanghai, October 8, 1903.

Ratified December 9, 1903.

Ratifications exchanged at Peking, January 11, 1904.

Promulgated January, 19, 1904.

His Majesty the Emperor of Japan and His Majesty the Emperor of China, in order to give full effect to the provisions of Article 11 of the Final Protocol signed at Peking on the seventh day of the ninth month of the thirty-fourth year of Meiji, corresponding to the twenty-fifth day of the seventh moon of the twenty-seventh year of K'unang-hsu, have resolved to conclude a Supplementary Treaty of Commerce and Navigation, designed to facilitate and promote the commercial relations between Japan and China, and have for that purpose named as Their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Hioki Eki, Jugo, Fifth Class of the Imperial Order of the Rising Sun, First Secretary of Legation, and Odagiri Masanosuke, Shorokui, Fifth Class of the Imperial Order of the Rising Sun, Consul-General;

And His Majesty the Emperor of China, Lu Haihuan, President of the Board of Public Works, Sheng Hsuan-huan, Junior Guardian of the Heir Apparent, formerly Senior Vice-President of the Board of Public Works, and Wu T'ingfang, Senior Vice-President of the Board of Commerce:

Who, after having communicated to each other their Full Powers found to be in good and due form, have agreed upon and concluded the following Articles:--

ARTICLE 1.

Whereas China, with the object of reforming its fiscal system, proposes to levy a surtax in excess of the tariff rates on all goods passing through the Custom Houses, whether maritime or inland and frontier, in order to compensate in a measure for the loss incurred by the complete abolition of

likin, Japan consents to pay the same surtax as is agreed upon between China and all the Treaty Powers. With regard to the production tax, consumption tax and excise, and the taxes on native opium and salt, leviable by China, Japan also consents to accept the same arrangements as are agreed upon between all the Treaty Powers and China. It is understood however that the commerce, rights and privileges of Japan shall not, on account of the above, be placed at any disadvantage as compared with the commerce rights and privileges of other Powers.

ARTICLE 2

The Chinese Government agree to permit Japanese steamship-owners to erect, at their own expense, appliances for hauling through the rapids of that part of the Yang-tze-kiang between Ichang and Chungking. But as the interests of the population of the provinces of Szechuen, Hunan and Hupeh are involved, it is therefore necessary that the approval of the Imperial Maritime Customs be obtained before such appliances may be so erected.

These appliances, which shall be at the disposal of all vessels both steamers and junks, shall not obstruct the waterway nor interfere with the free passage of junks or of persons on the banks of the river. Such appliances shall be subject to special regulations to be drawn up by the Imperial Maritime Customs.

ARTICLE 3

The Chinese Government agree that any Japanese steamer capable of navigating the inland waterways, upon reporting at the Imperial Maritime Customs, may proceed for the purpose of trade from a treaty port to places inland, so reported, on complying with the Original and Supplementary Regulations for Steam Navigation Inland.

ARTICLE 4

In case Chinese subjects conjointly with Japanese subjects organise a partnership or company for a legitimate purpose, they shall equitably share the profits and losses with all the members according to the terms of the agreement or memorandum and articles of association and the regulations framed thereunder, and they shall be liable to the fulfilment of the obligations imposed by the said agreement or memorandum and articles of association and the regulations framed thereunder as accepted by them and as interpreted by Japanese Courts. Should they fail to fulfil the obligation so imposed and legal action be taken against them in consequence, Chinese Courts shall at once enforce fulfilment of such obligations.

It is understood that in case Japanese subjects conjointly with Chinese subjects organise a partnership or company, they shall also equitably share the profits and losses with all the members according to the terms of the agreement or memorandum and articles of association and the regulations framed thereunder. Should such Japanese subjects fail to fulfil any of the obligations imposed by the said agreement or memorandum and articles of association or by the regulations framed thereunder, Japanese Courts shall in like manner at once enforce fulfilment of such obligations by them.

ARTICLE 5

The Chinese Government agree to make and faithfully enforce such regulations as are necessary for preventing Chinese subjects from infringing registered trade-marks held by Japanese subjects.

The Chinese Government likewise agree to make such regulations as are necessary for affording protection to registered copyrights held by Japanese subjects in the books, pamphlets, maps and charts written in the Chinese language and specially prepared for the use of Chinese people.

It is further agreed that the Chinese Government shall establish registration offices where foreign trade-marks and copyrights, upon application for the protection of the Chinese Government, shall be registered in accordance with the provisions of the regulations to be hereafter framed by the Chinese Government for the purpose of protecting trade-marks and copyrights.

It is understood that Chinese trade-marks and copyrights properly registered according to the provision of the laws and regulations of Japan will receive similar protection against infringement in Japan.

This Article shall not be held to protect against due process of law any Japanese or Chinese subject who may be the author, proprietor or seller of any publication calculated to injure the well-being of China.

ARTICLE 6

China agrees to establish itself, as soon as possible, a system of uniform national coinage and provide for a uniform national currency which shall be freely used as legal tender in payment of all duties, taxes and other obligations by Japanese subjects as well as by Chinese subjects in the Chinese Empire. It is understood, however, that all Customs duties shall continue to be calculated and paid on the basis of the Haikwan tacl.

ARTICLE 7

As the weights and measures used by the mercantile and other classes for general and commercial purposes in the different provinces of China vary and do not accord with the standards fixed by the Imperial Government Boards, thus resulting in detriment to the trade of Chinese and foreigners, the Governors-General and Governors of all the provinces, after careful inquiry into existing conditions, shall consult together and fix upon uniform standards which, after a Memorial to the Throne for sanction, shall be adopted and used in all transactions by officials and people throughout all the Empire. These standards shall be first used in the places opened to foreign trade and gradually extended to inland places. Any differences resulting from divergence between the new weights and measures and those now in vogue shall be equitably settled, whether, by way of increase or decrease, according to the amount of such difference.

ARTICLE 8

The Regulations for Steam Navigation Inland of the fifth moon of the twenty-fourth year of Kuang-hsu and the Supplementary Rules of the seventh moon of the same year having been found in some respects inconvenient in working, the Chinese Government hereby agree to amend them and to annex such new Rules to this Treaty.

These Rules shall remain in force until altered by mutual consent.

ARTICLE 9

The provisions of all treaties and engagements now subsisting between Japan and China, in so far as they are not modified or repealed by this Act, are hereby confirmed; and it is hereby expressly stipulated in addition that the Japanese Government, Officers, Subjects, Commerce, Navigation, Shipping,

Industries and Property of all kinds shall be allowed free and full participation in all privileges, immunities and advantages which have been or may hereafter be granted by His Majesty the Emperor of China or by the Chinese Government or by the Provincial or Local Administrations of China to the Government, Officers, Subjects, Commerce, Navigation, Shipping, Industries or Property of any other nation.

The Japanese Government will do its utmost to secure to Chinese Officers and Subjects resident in Japan the most favourable treatment compatible with the laws and regulations of the Empire.

ARTICLE 10

The High Contracting Parties hereto agree that, in case of and after the complete withdrawal of the foreign troops stationed in the province of Chihli and of the Legation guards, a place of international residence and trade in Peking will be forthwith opened by China itself. The detailed regulations relating thereto shall be settled in due time after consultation.

The Chinese Government agree to open to foreign trade, within six months from the exchange of the Ratifications of this Treaty, Ch'angsha-fu in the province of Hunan on the same footing as the ports already opened to foreign trade. Foreigners residing in this open port are to observe the Municipal and Police Regulations on the same footing as Chinese residents, and they are not to be entitled to establish a Municipality and Police of their own within the limits of this treaty port, except with the consent of the Chinese authorities.

The Chinese Government agree that, upon the exchange of the Ratifications of this Treaty, Mukden and Tatungkow, both in the province of Shengking, will be opened by China itself as places of international residence and trade. The selection of suitable

localities to be set apart for international use and occupation and the regulations for these places set apart for foreign residence and trade shall be agreed upon by the Governments of Japan and China after consultation together.

ARTICLE 11

The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of Japan and Western nations, Japan agrees to give every assistance to such reform, and will also be prepared to relinquish its extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warrant it in so doing.

ARTICLE 12

The present Treaty is signed in the Japanese, Chinese and English languages. In order, however, to prevent future discussions, the Plenipotentiaries of the High Contracting Parties have agreed that in case of any divergence in the interpretation between the Japanese and Chinese Texts of the Treaty, the difference shall be settled by reference to the English Text.

ARTICLE 13

The present Treaty shall be ratified by His Majesty the Emperor of Japan and His Majesty the Emperor of China, and the Ratifications thereof shall be exchanged at Peking as soon as possible and not later than six months from the present date.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seals of their arms.

Def. Doc. # 813

Done at Shanghai this eighth day of the tenth month of the thirty-sixth year of Meiji, corresponding to the eighteenth day of the eighth moon of the twenty-ninth year of Kuang-hsu.

(L. S.) Hioki Eki.

(L. S.) Odagiri Masnoske.

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 2 pages and entitled "Supplementary Treaty of Commerce and Navigation, Signed at Shanghai, October 8, 1903." is an exact and true copy of an official document of the Japanese Foreign Office.

Certified at Tokyo,

On this 25th day of March, 1947.

Signature of Official

Witness: _____